## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA BIG STONE GAP DIVISION

UNITED STATES OF AMERICA	)	
	)	C N- 2.00CD00015
	)	Case No. 2:08CR00015
v.	)	ORDER
	)	D . I D I
CHRISTOPHER JAMES FAUCETT,	)	By: James P. Jones
	)	United States District Judge
Defendant.	)	

For the reasons set forth in the Opinion accompanying this Final Order, it is **ORDERED** as follows:

- 1. The defendant's Motion under Fed. R. Crim. P. 33(b)(1) (ECF No. 172) and his request for appointment of counsel are DENIED, and the defendant's motion is CONSTRUED as a Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C.A. § 2255;
- 2. The Clerk is DIRECTED to redocket the motion (ECF No. 172) as a § 2255 motion;
- 3. The § 2255 motion is hereby DENIED without prejudice as successive and stricken from the active docket; and

4. A Certificate of Appealability is DENIED, based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right.

ENTER: June 4, 2012

/s/ James P. Jones

United States District Judge